



Agenda Date: 2/20/02
Agenda Item: IIIB

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

IN THE MATTER OF THE PETITION OF)
SERVICE ELECTRIC CABLE T.V. OF)
HUNTERDON FOR THE RENEWAL OF THE)
CERTIFICATE OF APPROVAL FOR THE)
CONSTRUCTION, OPERATION AND)
MAINTENANCE OF A CABLE TELEVISION)
SYSTEM IN THE BOROUGH OF)
MILFORD, COUNTY OF HUNTERDON,)
STATE OF NEW JERSEY)

CABLE TELEVISION

RENEWAL CERTIFICATE OF APPROVAL

DOCKET NO. CE01120821

Thomas C. Kelly, Esq., West Caldwell, New Jersey, for the Petitioner.

Borough Clerk, Borough of Milford, New Jersey, by Noralie LaFevre, for the Borough.

BY THE BOARD:

On June 1 1982, the Board granted Service Electric Cable TV of New Jersey, Inc. ("Service Electric"), under the corporate name of Garden State CATV, Inc. ("Garden State"), a Certificate of Approval in Docket No. 804C-6677, for the construction, operation and maintenance of a cable television system for the Borough of Milford ("Borough"). Service Electric underwent corporate restructuring and subsequently dropped the name Garden State. On July 9, 1990, the Board approved the transfer of the Certificate of Approval from Service Electric to Service Electric Cable T.V. of Hunterdon, Inc. ("Petitioner"), in Consolidated Docket Nos. CF90050348J and CM90050488. On December 9, 1992, the Board granted the Petitioner a Renewal Certificate of Approval for the Borough, in Docket No. CE91121835. The Petitioner's Certificate is scheduled to expire on June 1, 2002.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on or about May 16, 2001, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Borough, after public hearing, adopted a municipal ordinance granting renewal consent on November 5, 2001. On November 5, 2001, the Borough simultaneously adopted certain ordinance amendments. On December 4, 2001, the Petitioner formally accepted the terms and conditions of the ordinance and its amendments in accordance with N.J.S.A. 48:5A-24.

On December 10, 2001, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance and its amendments. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is ten years. The Board finds this period to be of reasonable duration.
5. The Borough has reserved the right to review the performance of the Petitioner with regard to the ordinance. If the Borough determines that the Petitioner has not complied with the material terms of the ordinance and the Petitioner has been provided with written notice and a reasonable opportunity to cure, the Borough may petition the Board for a reduction of the franchise term or other appropriate relief. The extent of the reduction sought from the Board by the Borough shall be commensurate with the nature and extent of the material non-compliance.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. The current agent serving this provision is located at 387 S. Main Street in the Borough of Phillipsburg.
9. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall utilize the line extension policy attached to the Certificate as Appendix "I". The minimum homes per miles to be used is 35.
11. The Petitioner shall provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application. Specifically, the Petitioner maintains one channel for access programming, which is shared with leased access programming. The access portion of the channel is

currently programmed by Delaware Valley School. The Petitioner also maintains a bulletin board, which it shares with its local origination channel.

12. The Petitioner shall maintain a performance bond in the amount of \$25,000.00 for the life of the franchise. Upon undertaking any construction, the Petitioner shall post an additional performance bond of \$25,000.00 during the period of construction, which shall be subject to review by the Office of Cable Television and approval by the Board.

It is to be noted herein that the Borough's municipal consent ordinance requires an additional performance bond in the amount of \$25,000.00 during any construction performed by the Petitioner in the Borough. The Cable Television Act requires that, within its application for municipal consent, a cable company must include evidence of a commitment for a performance bond in an amount of not less than \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d). Although the municipality must approve the amount, the sufficiency and reasonableness of the performance bond is subject to review by the Office of Cable Television and approval by the Board. The purpose of this performance bond is to ensure all undertakings as promised in the municipal consent application and the ordinance.

The Petitioner has accepted the ordinance in its entirety. Further, the Petitioner has certified that it has no plans for any rebuild, additional upgrade or significant construction in the Borough and the Petitioner has completed the upgrade as referenced in the application. Therefore, this Renewal Certificate of Approval confirms that the Petitioner shall provide a performance bond in the amount of \$25,000.00 for the life of the franchise. The additional performance bond in the amount of \$25,000.00 during any subsequent construction is subject to review by the Office of Cable Television and approval by the Board.

Based upon these findings, the Board HEREBY CONCLUDES pursuant to N.J.S.A. 48:5A-17(a) and 28(c), that the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on June 1, 2012.

DATED: February 20, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
ACTING PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY